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**UNITED STATES ENVIRONMENTAL PROTECTION
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101**

ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF

City of Fair Play
Fair Play, Missouri

Respondent.

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Docket No. CWA ^{ff}7-2002-0141

**CONSENT AGREEMENT AND
FINAL ORDER**

CONSENT AGREEMENT AND FINAL ORDER

An initial proceeding for the assessment of a civil penalty was initiated on or about May 24, 2002, pursuant to Section 311(b)(6) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (hereinafter CWA), 33 U.S.C. § 1321(b)(6), as amended by the Oil Pollution Act of 1990, when the United States Environmental Protection Agency, Region VII (hereinafter Complainant or EPA) issued to the City of Fair Play (hereinafter Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violating the CWA Section 311(b)(6), 33 U.S.C. § 1321, and the regulations promulgated pursuant to Section 311(j) of the CWA and codified at 40 C.F.R. Part 112. The Complaint proposed a civil penalty of Nine Thousand Dollars (\$9,000) for this violation.

Complainant and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order are the result of such negotiations.

CONSENT AGREEMENT

1. Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the factual allegations of the Complaint.
2. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.
3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing, and to bear their respective costs and attorneys' fees.
4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, Respondent is presently in compliance with all requirements of Section 311 of the CWA, 33 U.S.C. § 1321, and all regulations promulgated thereunder.
5. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.
6. The settlement pursuant to this Consent Agreement shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.
7. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as set forth below in the Final Order.
8. Respondent understands that its failure to timely pay any portion of the mitigated civil penalty stated in Paragraph 1 below, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the

Treasury on the unpaid balance until such civil penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

8. The undersigned representative of Respondent certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

FINAL ORDER

Pursuant to the provisions of Section 311 of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), 33 U.S.C. § 1321, as amended by the Oil Pollution Act of 1990, and based upon the information set forth in the Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Seven Thousand Two Hundred Dollars (\$7,200). Said penalty shall be paid in quarterly installments of Nine Hundred Fifteen Dollars and Seventy Nine Cents, (\$915.79) on or before the corresponding dates: August 1, 2003, November 1, 2003, February 1, 2004, May 1, 2004, August 1, 2004, November 1, 2004, February 1, 2005, and May 1, 2005. The first installment for \$915.79 is due on or before August 1, 2003. The total penalty calculated with interest is Seven Thousand Three Hundred Twenty Six Dollars and Thirty Two Cents (\$7,326.32). Pursuant to 40 C.F.R. § 13.18, failure to make any payment according to the above schedule will automatically accelerate the debt which will become due and owing in full, immediately. Failure to pay the penalty according to the above schedule or in full by May 1, 2005, will result in the referral of this matter to the United

States Department of Justice for collection. Payment shall be by cashier's or certified check
made payable to the "Oil Spill Liability Trust Fund" and remitted to:

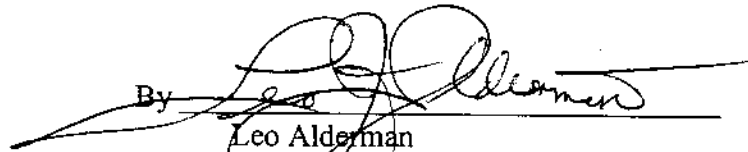
Kathy Robinson
Regional Hearing Clerk
901 N. 5th Street
Kansas City, Kansas 66101

2. Respondent shall send a **copy** of the check to:

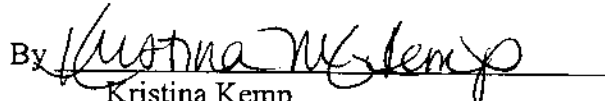
Kristina Kemp
Office of Regional Counsel
EPA, Region VII
901 North Fifth Street
Kansas City, Kansas 66101.

4. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as
a result of this matter.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By 
Leo Alderman
Director
Water, Wetlands, and Pesticides Branch

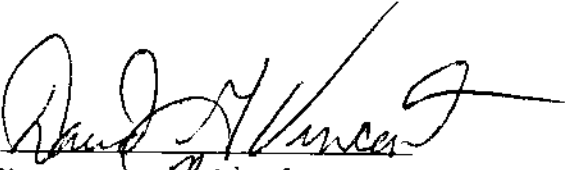
Date 6/23/03

By 
Kristina Kemp
Assistant Regional Counsel
Office of Regional Counsel

Date 6.23.03

RESPONDENT:

City of Fair Play

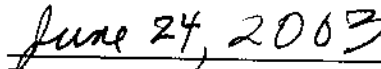
By: 
Title: MAYOR
Date: 6-21-03

IN THE MATTER OF City of Fair Play, Respondent
Docket No. CWA-07-2002-0141

IT IS SO ORDERED. This Final Order shall become effective immediately.

A handwritten signature in black ink, appearing to read "Robert L. Patrick", written over a horizontal line.

Robert L. Patrick
Regional Judicial Officer

A handwritten date "June 24, 2003" in black ink, written over a horizontal line.

Date

IN THE MATTER OF City of Fair Play, Respondent
Docket No. CWA-07-2002-0141

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristina Kemp
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

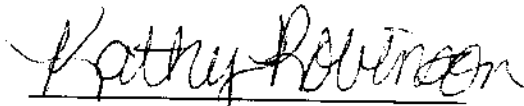
Copy by U.S. Certified Mail,
Return Receipt Requested, to:

John Forkner, Esq.
111 West Broadway
P.O. Box 117
Bolivar, Missouri 65613-0117

Copy by U.S. Mail to:

U.S. Coast Guard
Finance Center (ORG)
1430A Kristina Way
Chesapeake, Virginia 23326

Dated: 6/24/03


Kathy Robinson
Regional Hearing Clerk